

and at each sales or rental office. Participants who fulfill the requirements of this section by filing a Form HUD 9352(3-76) will maintain records to reflect their efforts in fulfilling the affirmative fair housing marketing plan. These records will be made available for review by FmHA or its successor agency under Public Law 103-354 personnel. Affirmative fair housing marketing plans will be reviewed by FmHA or its successor agency under Public Law 103-354 personnel in accordance with section 2006-M of this chapter.

(8) Applicants failing to comply with these requirements will be liable to sanctions authorized by regulations, rules or policies governing the program in which they are participating including but not limited to denial of further participation in FmHA or its successor agency under Public Law 103-354 programs and referral to the Department of Justice for suit by the United States for injunctive or other appropriate relief.

(d) *Discrimination complaints.* (1) Complaints against FmHA or its successor agency under Public Law 103-354 employees or borrowers under title VIII of the Civil Rights Act of 1968 received by the County Office will be sent to the State Director. The State Director will forward the complaints to the Administrator, Attention: Equal Opportunity Officer.

(2) Complaints of discrimination against packagers, contractors or others with whom FmHA or its successor agency under Public Law 103-354 deals should be filed with the Department of Housing and Urban Development. However, these complaints may be accepted by FmHA or its successor agency under Public Law 103-354 employees and routed through the State Director to the Administrator, Attention: Equal Opportunity Officer.

(e) *Relations to other regulations.* Nothing in this section in any way interferes with the administration of the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964 or the "Equal Opportunity in Housing Certification," signed by all packagers.

[41 FR 40112, Sept. 17, 1976, as amended at 42 FR 45894, Sept. 13, 1977; 42 FR 58737, Nov. 11, 1977; 50 FR 23903, June 7, 1985; 53 FR 27825, July 25, 1988; 55 FR 13503, Apr. 11, 1990]

§ 1901.204 Compliance reviews.

(a) *Recipients subject to reviews.* Recipients of the following kinds of loans and/or grants who received their loans or advances of funds on or after January 3, 1965, will be reviewed for compliance in accordance with Title VI of the Civil Rights Act of 1964. Guaranteed loans are not covered by Title VI and, therefore, are not subject to compliance reviews.

(1) Economic Opportunity loans to individuals for nonagricultural enterprises.

(2) Loans for Water and Waste Disposal facilities, including Resource Conservation and Development loans for this purpose.

(3) Community Facility loans.

(4) Watershed loans and advances.

(5) Recreation Association loans including those made from Resource Conservation and Development funds.

(6) Economic Opportunity loans to incorporated cooperative associations (Compliance reviews on unincorporated Economic Opportunity cooperatives subject to title VI will be conducted only as the need arises or as directed by either the State Director or the Administrator).

(7) Loans to Timber Development organizations.

(8) Rural Renewal loans and advances.

(9) Rural Rental Housing (formerly Senior Citizen rental) and Rural Cooperative Housing loans.

(10) Labor Housing loans and/or grants.

(11) Rural Housing Site loans.

(12) Business and Industrial Insured loans or grants.

(13) Technical Assistance grants.

(14) Development grants for water and waste disposal.

(15) Technical Assistance and Training grants in accordance with Title XIII of Pub. L. 99-198.

(16) Rural Business Enterprise grants and Television Demonstration grants.

(17) Section 601 Energy Impacted Area Development Assistance grants.

(18) Nonprofit National Corporations grants.

(19) System for Delivery of Certain Rural Development Programs Panel Grants.

(20) Emergency Community Water Assistance grants.

(21) Section 306C WWD loans and grants.

(22) Housing Application Packaging Grants.

(23) Rural and Cooperative Development Grants in subpart F of part 4284 of this title.

(24) Community Facilities Grants in part 3570, subpart B, of this title.

(b) *Duration of obligation for conducting reviews.* Compliance reviews will be conducted on recipients of loans and grants listed in paragraph (a) of this section:

(1) Until the loan is paid in full or otherwise satisfied; or sold through the sale of FmHA or its successor agency under Public Law 103-354's assets; or

(2) Until the last advance of grant funds is made for the grants listed in paragraph (a) of this section.

(c) *Compliance reviews of loans and grants to individuals—(1) Compliance Review Officer.* The County Supervisor will conduct compliance reviews of loans made to individuals.

(2) *Type of review.* If the borrower is currently receiving loan supervision, the County Supervisor may complete the compliance review based on his knowledge of the borrower's operations from other visits. Otherwise the County Supervisor must visit the borrower's facilities. Before completing the compliance review, the County Supervisor should be aware of:

(i) The borrower's operating regulations, for example, the grounds for eviction from a Rural Rental Housing Project.

(ii) The borrower's method of advertising the facility to the public, if there is any advertising, including how well these methods reach the minority community.

(iii) Any records of request for use of the borrower's facility.

(3) *Recording results of review.* The County Supervisor's determination that the borrower is or is not in compliance with title VI, together with information such as that outlined in paragraph (b)(2) of this section, will be recorded in the running record. Review of individual Rural Rental Housing borrowers will be recorded on Form FmHA or its successor agency under

Public Law 103-354 400-8, "Compliance Review (Nondiscrimination by Recipients of Financial Assistance Through FmHA or its successor agency under Public Law 103-354.)"

(4) *Reporting results of review.* If the borrower is in compliance, the County Supervisor will report his findings to the State Director. Exhibit A is a sample report. In the case of Rural Rental Housing borrowers, a copy of Form FmHA or its successor agency under Public Law 103-354 400-8 will be filed in the borrower's County Office loan docket, and the original will be sent to the State Director. If the borrower is not in compliance, the borrower's name, location, type of loan involved, and the reasons for the finding of non-compliance will be sent to the State Director.

(5) *Forwarding report of noncompliance.* The State Director will see that all compliance review reports are complete. If the recipient was found in non-compliance, the State Director will immediately send a copy of the compliance review report to the Administrator, Attention: Equal Opportunity Officer, with recommended action to take to bring the recipient into compliance.

(d) *Review of loans or grants to organizations* (any borrower or grantee other than an individual)—(1) *Designation of compliance review officer.* The State Director, except for Technical Assistance and Training grants (Pub. L. 99-198) and Nonprofit National Corporations grants, will designate the Compliance Review Officer for recipient organization. County Supervisors may be designated only if they have received approved compliance review training. Otherwise, the Compliance Review Officer must be a member of the State staff. For Technical Assistance and Training grants and Nonprofit National Corporations grants, the Assistant Administrator for Community and Business Programs will designate the Compliance Review Officer for recipient organizations.

(2) *Type of review.* Compliance reviews may be completed in connection with regular supervision visits to organizations and must include an inspection of the FmHA or its successor

agency under Public Law 103-354-financed facility. Before determining that the recipient is or is not complying with the provisions in Form FmHA or its successor agency under Public Law 103-354 400-4, the Compliance Review Officer will:

(i) Observe the recipient's records, including records on the present membership by race, the handling of applications for use of the facility, the user rates and membership fees or dues, and the facility's operating regulations.

(ii) Determine if the recipient advertises for members or users. If so, observe the effectiveness of the recipient's methods of advertising the availability of the facility to the public, and especially the effectiveness of this advertising in reaching the minority community.

(iii) Interview organization officials, members, and employees. In reviews of recipients of Technical Assistance grants, members of the self-help housing groups should be interviewed to determine the way in which they were recruited.

(iv) Interview informed local community leaders, including minority leaders, if any to determine if the facility is operating without discrimination because of race, color, or national origin.

(3) *Recording results of reviews*—(i) *Association, Watershed, Resource Conservation and Development, and Rural Renewal loans involving recreation facilities.* Reviews will be recorded on Form FmHA or its successor agency under Public Law 103-354 400-7, "Compliance Reviews for Recreational Loans to Associations (FmHA or its successor agency under Public Law 103-354 Borrowers)." If the organization is found in compliance with title VI, the original of the form will be sent to the State Director, and a copy will be filed in the borrower's County Office loan docket. If the organization is found in noncompliance, any additional information which led to the finding will be sent with the form.

(ii) *Loans and/or grants for Water and Waste Disposal systems, incorporated Economic Opportunity cooperatives, Grazing associations, Rural Rental Housing, Labor Housing, and Rural Housing Sites.* Reviews will be completed on Form FmHA or its successor agency under

Public Law 103-354 400-8. The original of the form will be sent to the State Director and a copy filed in the borrower's County Office loan docket. If the organization is found in noncompliance, any additional information which led to the finding will be sent with the form.

(iii) *Timber Development organizations, Rural Cooperative Housing loans, and Technical Assistance grants.* The information obtained during the compliance review as well as the Compliance Review Officer's determination of the borrower's compliance or noncompliance will be recorded in the running record. If the organization is found in compliance, a report (see exhibit A) will be sent to the State Director. If the organization is not in compliance, the organization's name, location, type of loan received, and all information which led to the finding will be sent to the State Director.

(iv) *Technical Assistance and Training grants (Pub. L. 99-198) and Nonprofit National Corporations grants.* The Compliance Review Officer will record in the running record information obtained during the compliance review and the determination of recipient's compliance or noncompliance. A report will be prepared and sent to the Assistant Administrator, Community and Business Programs, for each recipient.

(4) *Mandatory hook-up ordinance.* Compliance reviews of public entity borrowers or grantees for water and waste disposal facilities who are operating under the provisions of a mandatory hook-up ordinance will consist of a certification by the borrower or grantee that the ordinance is still in effect and is being enforced.

(5) *Forwarding noncompliance report.* The State Director will see that the reports are complete. If the recipient was found in noncompliance, the State Director will immediately send a copy of the report to the Administrator, Attention: Equal Opportunity Officer, with action proposed to bring the recipient into compliance. For Technical Assistance and Training grants and Nonprofit National Corporations grants, the Assistant Administrator, Community and Business Programs, will send a copy of the report to the Equal Opportunity Officer.

(e) *Timing of reviews*—(1) *Reporting year.* The State Director will schedule Civil Rights compliance reviews from November 1 to October 31 of each year. For example, compliance reviews scheduled during 1976 should be conducted after November 1, 1975, but before October 31, 1976.

(2) *Initial reviews*—(i) *Water and Waste Disposal loan and/or grant.* The initial compliance review will be conducted before loan or grant closing or before the construction begins, whichever occurs first.

(ii) *Technical Assistance grants, Technical Assistance and Training grants (Pub. L. 99-198) and Nonprofit National Corporations grants.* The initial compliance review will be conducted before the grant is closed.

(iii) *Rural Housing Site loan.* The initial compliance review will be conducted at the beginning of the sale of the sites developed with the FmHA or its successor agency under Public Law 103-354 loan.

(iv) *Watershed loans for future water supply.* The initial compliance review will be made when usage of the stored water begins.

(v) *All other loans and/or grants.* The initial compliance review of loans and/or grants listed in paragraph (a) of this section will be conducted within the first reporting year after the loan or grant is closed or after Form FmHA or its successor agency under Public Law 103-354 400-4 is signed.

(3) *Subsequent reviews.* The State Director is responsible for requiring subsequent compliance reviews at intervals not less than 90 days, or more than 3 years, after the previous compliance review.

(i) For Water and Waste Disposal organizations with loans that have had at least two compliance reviews after loan closing covering a six-year period, and where no discriminatory practices are indicated, the frequency of subsequent reviews may be reduced to six years.

(ii) If Water and Waste Disposal organizations have merged to form a new organization, two reviews will be conducted at 3-year intervals after the merger and one every 6 years thereafter, provided no discriminatory practices are noted.

(f) *State Office summary reports.* The State Director will keep a list of all compliance reviews conducted during the reporting year so as to schedule each year's reviews. The State Director will submit a copy of this list to the Administrator, Attention: Equal Opportunity Office, no later than July 31 of each year. Recipients found in non-compliance will also be listed on the summary report. Exhibit B is a sample report. For Technical Assistance and Training grants and Nonprofit National Corporations grants, the Assistant Administrator, Community and Business Programs, will submit a summary report, using exhibit B of this subpart as a guide, to the Equal Opportunity Officer by July 31 of each year.

[41 FR 40112, Sept. 17, 1976, as amended at 52 FR 41949, Nov. 2, 1987; 53 FR 3860, Feb. 10, 1988; 55 FR 5962, Feb. 21, 1990; 57 FR 11559, Apr. 6, 1992; 58 FR 5565, Jan. 22, 1993; 58 FR 58643, Nov. 3, 1993; 59 FR 41389, Aug. 12, 1994; 61 FR 3781, Feb. 2, 1996; 62 FR 16468, Apr. 7, 1997; 62 FR 33510, June 19, 1997; 62 FR 42387, Aug. 7, 1997; 68 FR 69952, Dec. 16, 2003]

§ 1901.205 Nondiscrimination in construction financed with FmHA or its successor agency under Public Law 103-354 loan or grant.

Executive Order 11246 provides for equal employment opportunity without regard to race, color, religion, sex, or national origin and the elimination of all facilities segregated on the basis of race, color, religion, or national origin on construction work financed by FmHA or its successor agency under Public Law 103-354 involving a construction contract of more than \$10,000.

(a) *Compliance.* This section applies to Federal or federally assisted construction contracts or subcontracts in excess of \$10,000 for on-site construction. It also applies to invitations for bids published for such construction. If construction work of over \$10,000 is partially financed by another Federal Agency, the County Supervisor will try to reach an agreement as to which agency will administer the non-discrimination requirements. If unable to reach an agreement, the County Supervisor will refer the case to the State Director.

(b) *Requirements of applicants, contractors, or subcontractors and responsible*